IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 20695 of 2001

Between:

A.Sunder Kumar
Asst. Professor in Applied Art, J.N.T.U.College of Fine Arts,
Hyderabad

..... PETITIONER

AND

1 The Special Officer,
Gaddiannaram Municipality, Gaddiannaram, Saroornagar Mandal,
Hyderabad
2 The Commissioner,
Municipal Corporation of Hyderabad Tankbund Road, Hyderabad
3 The Secretary to the Govt. of A.P.
Municipal Administration and Urban Development (HMA & UD)

Department, Secretariat, Hyderabad
4 The Commissioner of Police Twin cities, Hyderabad
5 The Secretary to the Govt. of A.P.
Home (Police) Department, Secretariat, Hyderabad
6 The Director of Municipal Administration
MCH Complex, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue an order, direction or a writ, more particularly one in the nature of writ of mandamus calling for the remarks and records from the respondents herein in and connected to : "Over flow of the open drain to the road not covered with slabs existing in and around P&T Colony in Saroornagar, causing the death of 3 persons till now, including the loss of life of a boy of 7 years old studying I Class on 16/09/2001 during the rainy season as per the paper clipping of Eenadu Telugu Daily News Paper Dtd.17/09/2001 and to pass orders directing the concerned authorities to take necessary steps to cover the open drain with slabs in the interest of justice to save the loss of lives of the innocent public,".

Counsel for the Petitioner:PETITION

Counsel for the Respondent Nos.1 and 3 to 6 : The Advocate General

Counsel for the Respondent No.2: Mr.Ghanta Rama Rao

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

A letter from K.Sundar Kumar, Assistant Professor, Applied Arts, J.N.T.U College of Fine Arts, Hyderabad was treated as Public Interest Litigation. The petitioner had sent a paper clipping of Eenadu Telugu daily dated 17th September, 2001 highlighting how a boy of seven years old studying Ist class lost his life in an open drain on 16th September, 2001. He requested the matter to be taken up as Public Interest Litigation and to give directions to the concerned to see that necessary remedial measures are taken to cover open drains with slabs. On registration of the writ petition, respondents 4 and 5 were asked to submit an enquiry report and Sri M.V.Ramachandra Raju, Superintendent of Police, Ranga Reddy District filed an affidavit appending thereto the enquiry report, wherein it is stated:

> "In this connection, it is to state that on 16-9-2001 at about 3.30 PM an information has been received about the alleged incident in P.S. Saroornagar. Thereupon, the Inspector of Police, Saroornagar and staff rushed to the spot and started searching for the boy. There was heavy down pour on 15th and 16th of September, 2001 due to which there was heavy flooding of water into the Nalas. Further, the scene of offence is located in P&T Colony and Saibaba Temple road and it is running from South to North. On the western side of the road, G.Pulla Reddy staff quarters are located and on the eastern side stationery shop. Bombay clinic and other establishments are located. The road is about 40 feet road. On either side of the road, 4 feet width and 4 feet depth drainage lane is passing. On the western side the entire Nala is open and on the eastern side there are openings only at few places i.e., in front of Bombay Clinic and other places. On the said date there was heavy down pour. Due to the down pour and the water

was over-flowing above the drainage opening, which is the eastern side of the road just in front of Bombay Clinic. The deceased boy Nagarjuna Reddy, S/o Jillella Anki Reddy, 7 years studying in New Model School, Dilsukhnagar, resident of 9-75, P&T Colony, was playing with other boys Kotla Lepakshi, S/o Chinnappareddy, 7 years and 2nd class R/o G.Pulla Reddy Quarters, 2) Khasim Patankhan, S/o Dr.Dariash Babu, Bombay Clinic, 6 years, studying 1st class and suddenly the deceased boy happened to see a ball pen refill floating on the water and in order to collect the said ball pen refill, the boy rushed to the Nala on the eastern side of the road, which was open just in front of the Bombay clinic and flowing above the nala. The boy could not judge that it was not open and went into the water in a hurry and fell into the 4 feet deep nala and was washed away in the water. The other boys immediately raised a hue and cry and the parents of the deceased boy also rushed to the spot in search of the boy. On receipt of information the Saroornagar Police also rushed and made efforts. However, the efforts on 16-9-2001 could not yield any results. The Saroornagar Police continued their search with the help of the local people and also the Municipal authorities but it was only on 17-9-2001 at 9.30 AM, the body could be traced on the bank of moosi river near Narasimha Swamy temple, new Maruthinagar under Saroornagar P.S. Limits.

The parents, who also identified the body, were grief stricken and were under utter shock and they insisted that the body should be handed over to them immediately without postmortem and other formalities. This request was supported by the local people, who had gathered there in huge numbers and they also requested to handover the body as there was no foul play suspected either by the parents or anybody and further there was direct evidence from two other boys, who were schoolmates of the deceased boy. Therefore, detailed statements of the father Sri Jillella Ankireddy and mother Smt.Peramma and other direct witnesses were recorded and the body was handed over to the parents under proper acknowledgment."

As regards the drain is concerned, K.Subrahmanyam, Special Officer, Gaddiannaram Municipality has filed affidavit. According to him, Gaddiannaram Municipality is one of the ten surrounding municipalities of the twin cities and situated in Ranga Reddy District. On the southern side of the Municipality and on its upstream is the Saroornagar Lake. As a result of heavy downpour, the Saroornagar lake is over flowing and part of the areas are submerged in water and it is stated that

with a view to ensure the existing open drains in the areas are covered, the municipality has taken up laying RCC cover slabs over the existing open drains for which estimates were prepared and it was assured in the affidavit that the open nalas are expected to be covered with RCC slabs by the end of the year 2002.

In view of what has been stated above, nothing survives in the petition and it stands closed without any further directions.

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DEVINDER GUPTA, CJ

29-11-2004

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G.ROHINI, J

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To

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